

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**MISSISSIPPI STATE CONFERENCE OF THE
NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE;
DR. ANDREA WESLEY; DR. JOSEPH
WESLEY; ROBERT EVANS; GARY
FREDERICKS; PAMELA HAMNER;
BARBARA FINN; OTHO BARNES;
SHIRLINDA ROBERTSON; SANDRA SMITH;
DEBORAH HULITT; RODESTA TUMBLIN;
DR. KIA JONES; ANGELA GRAYSON; MARCELEAN
ARRINGTON; VICTORIA ROBERTSON,** **PLAINTIFFS**

VS. CIVIL ACTION NO. 3:22-cv-734-DPJ-HSO-LHS

**STATE BOARD OF ELECTION
COMMISSIONERS; TATE REEVES, *in his
official capacity as Governor of Mississippi;*
LYNN FITCH, *in her official capacity as
Attorney General of Mississippi;* MICHAEL
WATSON, *in his official capacity as Secretary
of State of Mississippi,*** **DEFENDANTS**

AND

**MISSISSIPPI REPUBLICAN
EXECUTIVE COMMITTEE** **INTERVENOR-DEFENDANT**

DEFENDANTS' MOTION TO COMPEL COMPLIANCE WITH SUBPOENAS

Defendants State Board of Election Commissioners, Governor Tate Reeves, Attorney General Lynn Fitch, and Secretary of State Michael Watson (collectively, “Defendants”) respectfully move this Court for an order compelling Peyton Strategies, LLC, Senator Derrick T. Simmons and Representative Robert L. Johnson III (collectively, the “Subpoenaed Non-Parties”)

to comply with non-party subpoenas issued pursuant to Federal Rule of Civil Procedure 45 (the “Subpoena” or “Subpoenas”). In support of this motion, the Defendants would show as follows:

1. This case was brought by the Mississippi Conference of the NAACP and individual Plaintiffs alleging that the 2022 Maps violate both the Fourteenth Amendment of the U.S. Constitution and the Voting Rights Act. *See* Amended Complaint [Dkt. # 27]. As part of their defense, the Defendants issued and served certain Subpoenas on the Subpoenaed Non-Parties seeking document and communications related to their role or participation in the 2022 Legislative Redistricting Process, including the alternative maps presented by Senator Simmons and Representative Johnson during the floor debates preceding adoption. The requests are reasonable and proportional to the needs of the case.

2. On August 1, 2023, Defendants issued a Subpoena to Peyton Strategies, LLC c/o Charles Taylor, Principal seeking relevant documents. [Dkt # 63]. Mr. Taylor was served on August 11, 2023, and the Subpoena listed August 21, 2023 as the date of compliance. *Id.* The subpoena to Peyton Strategies seeks documents and communications between Peyton Strategies and Plaintiffs or any member of the Mississippi Legislature related to the 2022 Legislative Redistricting Process. On information and belief, Peyton Strategies assisted Senator Simmons in drawing and/or preparing the alternative map presented by Senator Simmons on the floor of the Senate on March 27, 2022. The deadline for Peyton Strategies to respond or object was no later than August 21, 2023. To date, Peyton Strategies has ignored the Subpoena, thereby failing to respond, object or produce the requested records.

3. On August 30, 2023, Defendants issued a Subpoena to Senator Derrick T. Simmons, in his official capacity as a member of the Mississippi State Senate, District 12 seeking relevant documents. [Dkt. # 74]. The Subpoena to Senator Simmons seeks documents and

communications with the Plaintiffs and all other third parties regarding the 2022 Legislative Redistricting Process, including the alternative map presented by Senator Simmons on the floor of the Senate on March 27, 2022. Senator Simmons was served on August 31, 2023, and the Subpoena listed September 13, 2023 as the date of compliance. *Id.* The deadline for Senator Simmons to respond or object was no later than September 13, 2023. To date, Senator Simmons has ignored the Subpoena, thereby failing to respond, object or produce the requested records.

4. On September 12, 2023, Defendants issued a Subpoena to Representative Robert L. Johnson III, in his official capacity as a member of the Mississippi House of Representatives, District 94 seeking relevant documents. [Dkt. # 76]. The Subpoena to Representative Johnson seeks documents and communications with the Plaintiffs and all other third parties regarding the 2022 Legislative Redistricting Process, including the alternative map presented by Representative Johnson on the floor of the House of Representatives on March 27, 2022. Representative Johnson was served on September 12, 2023, and the Subpoena listed September 26, 2023 as the date of compliance. *Id.* The deadline for Representative Johnson to respond or object was no later than September 26, 2023. To date, Representative Johnson has ignored the Subpoena, thereby failing to respond, object or produce the requested records.

5. Counsel for the Defendants were previously advised by counsel for the Plaintiffs that they do not represent Senator Simmons or Representative Johnson. Counsel for the Defendants attempted to confer with counsel for Plaintiffs to confirm that they also do not represent Peyton Strategies. *See* 10/04/23 E-mail from Beckett to Tom, Ex. A hereto. As of the time of this filing, counsel for Plaintiffs has not responded. No other lawyer has contacted counsel for Defendants to advise that they represent the Subpoenaed Non-Parties. Thus, to the extent

counsel for the Defendants have any obligation to “meet and confer” with non-Parties, counsel for the Defendants have no one with whom to “meet and confer” in this instance.

6. Here, the Subpoenaed Non-Parties have neither responded and produced documents nor responded to raise objections. They have simply ignored the Subpoenas altogether. Any objections that could have been asserted by the Subpoenaed Non-Parties have therefore been waived by each of them. Likewise, the Subpoenaed Non-Parties have not raised any claims of privilege. The time for doing so has passed.

7. Defendants hereby incorporate in further support of this Motion their accompanying Memorandum of Authorities and the following exhibit:

Exhibit A – 10/4/23 E-mail from Beckett to Tom.

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully request the Court grant this Motion and order the Subpoenaed Non-Parties to comply with Defendants’ Subpoenas within 10 days of entry of the Court’s order. Defendants seek all such other, further and additional relief as to which they may be entitled.

THIS the 6th day of October, 2023.

Respectfully submitted,

STATE BOARD OF ELECTION
COMMISSIONERS; TATE REEVES, IN HIS
OFFICIAL CAPACITY AS GOVERNOR OF
MISSISSIPPI; LYNN FITCH, IN HER OFFICIAL
CAPACITY AS ATTORNEY GENERAL OF
MISSISSIPPI; MICHAEL WATSON, IN HIS
OFFICIAL CAPACITY AS SECRETARY OF
STATE, DEFENDANTS

By: /s/ P. Ryan Beckett
P. Ryan Beckett (MB #99524)

ONE OF THEIR COUNSEL

OF COUNSEL:

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CERTIFICATE OF SERVICE

I, P. Ryan Beckett, attorney for the Legislative Subpoena Recipients, hereby certify that I have on this date served the above and foregoing on all counsel of record via electronic mail.

I further certify that I served the above and foregoing via U.S. Mail on the following:

Peyton Strategies, LLC
c/o Charles Taylor, Principal
1420 School Park St.
Jackson, MS 39213

Senator Derrick T. Simmons
Simmons & Simmons, PLLC
207 Main Street
Greenville, MS 38701

Representative Robert L. Johnson, III
P.O. Box 1678
Natchez, MS 39121

This the 6th day of October, 2023.

/s/ P. Ryan Beckett
P. Ryan Beckett